

FILED

NOV 01 2012

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

MINDY MITCHELL, as next friend on)	CV 12-165-M-DLC-JCL
behalf of CHADWICK CORY CURTIS,)	
)	
Petitioner,)	
)	
vs.)	ORDER
)	
SANDERS COUNTY JAIL,)	
)	
Respondent.)	
_____)	

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation on September 26, 2012, and recommended dismissing the putative petition for the reasons that on its face Petitioner Mindy Mitchell lacks “next friend” standing. Judge Lynch also found that Mitchell may not appear on Curtis’s behalf because she is not admitted to the Bar of this Court. Petitioner did not timely object to the Findings and Recommendation, and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas

Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981).

Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

After a review of Judge Lynch’s Findings and Recommendation, I find no clear error. Accordingly,

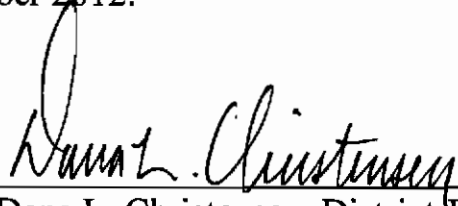
IT IS HEREBY ORDERED that Judge Lynch’s Findings and Recommendation (doc. 2) are adopted in full. The purported, federal habeas petition (doc. 1) is DISMISSED.

IT IS FURTHER ORDERED a certificate of appealability is DENIED.

The Clerk of Court is directed to enter, by separate document, a judgment of dismissal.

The Clerk is further directed to note in the docket entry for the terminal order that dismissal of this petition is without prejudice to Chadwick Cory Curtis.

DATED this 1st day of November 2012.



Dana L. Christensen, District Judge
United States District Court